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In re Application of
LIEBERMAN et al.
Serial No.: 10/533,622 :
PCT No.: PCT/US03/34686 :
Int. Filing Date: 30 October 2003 : DECISION ON PETITION
Priority Date: 30 October 2002 : UNDER 37 CFR 1.181
Atty. Docket No.: 033393-055194 :
For: METHODS FOR TREATING AND :
PREVENTING APOPTOSIS :
RELATED DISEASES USING RNA :
INTERFERING AGENTS :

This decision is issued in response to applicants' "Petition Under 37 CFR 1.181 to Withdraw Holding of Abandonment" filed 16 October 2006. No petition fee is due.

BACKGROUND

On 30 October 2003, applicants filed international application PCT/US03/34686 which claimed a priority date of 30 October 2002. Pursuant to 37 CAR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 30 April 2005.

On 29 April 2005, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 16 September 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b). (The notification did not indicate that a Sequence Listing was required under 37 CFR 1.821(c) and (e).)

On 17 January 2006, applicants filed an executed declaration and an assignment.

On 03 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 17 January 2006.

On 07 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed Notification to Comply with Requirements for Patent Application Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) indicating that a Sequence Listing had not been filed as required by 37 CFR 1.821(c) and (e). The notification set a two-month time limit in which to respond. Extensions of time were available under 37 CFR 1.136(a).

On 11 September 2006, applicants filed "Response under 37 CFR 1.825(d) and Statement in Support of Filing a Substitute Sequence Listing under 37 CFR 1.821(f) which included a Statement under 37 CFR 1.821(e) with a hard copy and a computer readable form of the sequence listing. (On 19 September 2006, the PALM Database indicated that a compliant computer readable form (CRF) had been submitted.)

On 12 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification to Comply with Requirements for Patent Application Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) mailed 07 July 2006 within the time period set therein.

On 16 October 2006, applicants filed the present petition to withdraw the holding of abandonment.

DISCUSSION

The above-identified application was abandoned for failure to file a proper response to the Notification to Comply with Requirements for Patent Application Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) mailed 07 July 2006, in that, the sequence listing in computer readable form (CRF) had not been submitted within the period set therein.

Applicants state in their present petition that a response to the Notification to Comply with Requirements for Patent Application Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) was filed on 15 September 2006. A review of the application file reveals that the sequence listing and computer readable form in compliance with 37 CFR 1.821 - 1.825 was received in the United States Patent and Trademark Office on 11 September 2006. Further, the USPTO's PALM Database indicated that a compliant computer readable form (CRF) had been entered on 19 September 2006. Therefore, the Notification of Abandonment was mailed in error and is hereby withdrawn.

CONCLUSION

Therefore, the petition to withdraw holding of abandonment is **GRANTED** and the holding of Abandonment is withdrawn.

The application has an international filing date of 30 October 2003 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **17 January 2006**.

This application is being returned to the United States/Elected Office for processing in accordance with this decision.



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